



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4936

Introduced 1/15/2010, by Rep. Naomi D. Jakobsson

#### SYNOPSIS AS INTRODUCED:

505 ILCS 80/3	from Ch. 5, par. 55.3
505 ILCS 80/19	from Ch. 5, par. 55.19
505 ILCS 80/20.5 new	
505 ILCS 80/20.10 new	
505 ILCS 80/20.15 new	

Amends the Illinois Fertilizer Act of 1961. Prohibits, except in certain circumstances, any person from intentionally applying to turf any product that (i) contains fertilizer material and (ii) is labeled as containing phosphorous or available phosphoric acid. Prohibits any person from intentionally applying to frozen turf or impervious surfaces any manipulated animal or vegetable manure, finished sewage sludge, or product that (i) contains fertilizer material and (ii) is labeled as containing phosphorous or available phosphoric acid. Prohibits, except in certain circumstances, any person from selling at retail any product that (i) contains fertilizer material and (ii) is labeled as containing phosphorous or available phosphoric acid. Prohibits, except in certain circumstances, the retail display of any any product that (i) contains fertilizer material and (ii) is labeled as containing phosphorous or available phosphoric acid. Creates penalties for violations. Defines "finished sewage sludge product", "processed", and "turf".

LRB096 16569 JDS 31842 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning agriculture.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Fertilizer Act of 1961 is amended  
5 by by changing Sections 3 and 19 and adding Sections 20.5,  
6 20.10, and 20.15 as follows:

7 (505 ILCS 80/3) (from Ch. 5, par. 55.3)

8 Sec. 3. Definitions of words and terms. When used in this  
9 Act unless the context otherwise requires:

10 (a) The term "fertilizer material" means any substance  
11 containing nitrogen, phosphorus, potash or any other  
12 recognized plant nutrient element or compound which is used  
13 primarily for its plant nutrient content or for compounding  
14 mixed fertilizers except unmanipulated animal and vegetable  
15 manures.

16 (b) The term "mixed fertilizer" means any combination or  
17 mixture of fertilizer materials designed for use or claimed to  
18 have value in promoting plant growth.

19 (c) The term "commercial fertilizer" means mixed  
20 fertilizer and/or fertilizer materials except the following  
21 natural products: agricultural limestone, marl, sea solids and  
22 unprocessed animal manure, which have not been manipulated so  
23 as to alter or change them chemically and burnt or hydrated

1 lime, and sewage sludge produced by any sanitary district shall  
2 not be subject to the provisions of this Act, except the  
3 provisions of Section 20.5 of this Act. Such term does not  
4 include "custom mixes" as defined herein.

5 (d) The term "anhydrous ammonia" means the compound formed  
6 by the combination of two gaseous elements, nitrogen and  
7 hydrogen, in the proportion of one part of nitrogen to three  
8 parts of hydrogen (NH<sub>3</sub>) by volume. Anhydrous ammonia is a  
9 commercial fertilizer of ammonia gas in compressed and  
10 liquified form. It is not aqueous ammonia which is a solution  
11 of ammonia gas in water and which is considered a low pressure  
12 nitrogen solution.

13 (e) The term "specialty fertilizer" means a commercial  
14 fertilizer distributed primarily for nonfarm use, such as home  
15 gardens, lawns, shrubbery, flowers, golf courses, municipal  
16 parks, cemeteries, green houses and nurseries, and may include  
17 commercial fertilizer used for research or experimental  
18 purposes.

19 (f) The term "bulk fertilizers" means commercial  
20 fertilizer or custom mix distributed in a non-packaged form.

21 (g) The term "custom mix" means a mixture of 2 or more  
22 commercial fertilizers mixed at time of shipment to the  
23 specific order of the consumer.

24 (h) The term "custom mixer" means a person who produces and  
25 sells custom mixes.

26 (i) The term "brand" means a term, design, or trade mark

1 used in connection with one or several grades of commercial  
2 fertilizers.

3 (j) The term "guaranteed analysis" means the minimum  
4 percentages of plant nutrients claimed in the following order  
5 and form:

- 6 A. Total Nitrogen (N) ..... %
- 7 Available Phosphoric Acid (P2O5) ..... %
- 8 Soluble Potash (K2O) ..... %

9 B. For unacidulated mineral phosphatic materials and basic  
10 slag, both total and available phosphoric acid and the degree  
11 of fineness. For bone, tankage, and other organic phosphatic  
12 materials, total phosphoric acid.

13 C. Additional plant nutrients expressed as the elements,  
14 when permitted by regulation.

15 D. Potential basicity or acidity expressed in terms of  
16 calcium carbonate equivalent in multiples of 100 pounds per  
17 ton, when required by regulation.

18 (k) The term "grade" means the minimum percentage of total  
19 nitrogen, available phosphoric acid (P2O5) and soluble potash  
20 (K2O) stated in the order given in this definition.

21 (l) The term "official sample" means any sample of  
22 commercial fertilizer or custom mix taken by the Director or  
23 his agent and designated as "official" by the Director.

24 (m) The term "ton" means a net weight of 2000 pounds  
25 avoirdupois.

26 (n) The term "per cent" or "percentage" means the

1 percentage by weight.

2 (o) The term "person" means any individual, partnership,  
3 association, firm and corporation.

4 (p) The term "distribute" means to offer for sale, sell,  
5 barter, store, handle, transport or otherwise supply  
6 commercial fertilizers or custom mix. The term "distributor"  
7 means any person who distributes.

8 (q) Words importing the singular number may extend and be  
9 applied to several persons or things and words importing the  
10 plural number may include the singular.

11 (r) The term "registrant" means the person who registers  
12 commercial fertilizer or custom mix under the provisions of  
13 this Act.

14 (s) The term "nitrogen solution" means a low pressure  
15 solution containing 2 per cent or more by weight of free  
16 ammonia and/or having vapor pressure of 5 pounds or more per  
17 square inch gauge at 104° F.

18 (t) The term "Department" means the Illinois Department of  
19 Agriculture.

20 (u) The term "Director" means the Director of the Illinois  
21 Department of Agriculture or a duly authorized representative.

22 (v) The term "finished sewage sludge product" means a  
23 product consisting in whole or in part of sewage sludge that is  
24 distributed to the public and that is disinfected by means of  
25 composting, pasteurization, wet air oxidation, heat treatment,  
26 or other means.

1       (w) The term "processed" means ground, pelletized,  
2 mechanically dried, packaged, supplemented with substances,  
3 including plant nutrients, that do not contain phosphorous, or  
4 otherwise treated in a manner designed to facilitate sale or  
5 distribution as a fertilizer material.

6       (x) The term "turf" means land, including residential  
7 property and publicly owned land, that is planted in closely  
8 mowed or managed grass, except that "turf" does not include (i)  
9 land used as a golf course or (ii) pasture, land used to grow  
10 grass for sod, or any other land used for agricultural  
11 production.

12       (Source: P.A. 83-586.)

13       (505 ILCS 80/19) (from Ch. 5, par. 55.19)

14       Sec. 19. Violations. (a) If it appears from the examination  
15 of any commercial fertilizer or custom mix that any of the  
16 provisions of this Act or the rules and regulations issued  
17 thereunder have been violated, the Director or his or her  
18 authorized agent shall cause notice of the violations to be  
19 given to the registrant, distributor or possessor from whom the  
20 sample was taken. Any person so notified shall be given  
21 opportunity to be heard under such rules and regulations as may  
22 be prescribed by the Director. If it appears after such  
23 hearing, either in the presence or absence of the person so  
24 notified, that any of the provisions of this Act or rules and  
25 regulations issued thereunder have been violated, the Director

1 may certify the facts to the proper prosecuting attorney.

2 It shall be unlawful for any person to distribute, store,  
3 transport or use anhydrous ammonia or nitrogen solutions in  
4 violation of this Act or the rules and regulations promulgated  
5 thereunder or to violate a stop use order issued by the  
6 Director.

7 (b) Except as otherwise provided in this Act, any ~~Any~~  
8 person convicted of violating any provisions of this Act or any  
9 of the rules or regulations issued thereunder, or who impedes,  
10 obstructs, hinders or otherwise prevents or attempts to prevent  
11 the Director, or his or her duly authorized agent, in the  
12 performance of his or her duty in connection with the  
13 provisions of this Act, shall be guilty of a business offense  
14 punishable by a fine not to exceed \$1,000. In all prosecutions  
15 under this Act involving the composition of a commercial  
16 fertilizer or custom mix, a certified copy of the official  
17 analysis signed by the Director shall be accepted as prima  
18 facie evidence of the composition.

19 (c) Nothing in this Act shall be construed as requiring the  
20 Director or his or her representative to report for prosecution  
21 or for the institution of seizure proceedings as a result of  
22 minor violations of the Act if he or she believes that the  
23 public interests will be served by a suitable notice of warning  
24 in writing.

25 (d) It shall be the duty of each State's attorney to whom  
26 any violation is reported to cause appropriate proceedings to

1 be instituted and prosecuted in the circuit court without  
2 delay.

3 (e) The Director is authorized to apply for and the court  
4 is authorized to grant a temporary restraining order or a  
5 preliminary or permanent injunction restraining any person  
6 from violating or continuing to violate any of the provisions  
7 of this Act or any rule or regulation promulgated under the Act  
8 notwithstanding the existence of other remedies. The  
9 injunction shall be entered without bond.

10 (Source: P.A. 83-1362.)

11 (505 ILCS 80/20.5 new)

12 Sec. 20.5. Restrictions on use and application.

13 (a) Except as provided in subsection (b) of this Section, a  
14 person may not intentionally apply to turf a product that (i)  
15 contains fertilizer material and (ii) is labeled as containing  
16 phosphorous or available phosphoric acid.

17 (b) Subsection (a) of this Section does not apply to:

18 (1) persons who apply the product to establish grass,  
19 using seed or sod, during the growing season in which the  
20 person began establishing the grass; and

21 (2) persons who apply the product to an area if the  
22 soil in the area is deficient in phosphorous, as shown by a  
23 soil test performed by a laboratory no earlier than 36  
24 months before the application of the product.

25 (c) A person may not intentionally apply to frozen turf any

1 processed animal or vegetable manure, finished sewage sludge  
2 product, or product that (i) contains fertilizer material and  
3 (ii) is labeled as containing phosphorous or available  
4 phosphoric acid.

5 (d) A person may not intentionally apply to an impervious  
6 surface any processed animal or vegetable manure, finished  
7 sewage sludge product, or product that (i) contains a  
8 fertilizer material and (ii) is labeled as containing  
9 phosphorous or available phosphoric acid. A person who  
10 accidentally applies these materials to an impervious surface  
11 shall immediately remove them.

12 (e) A person who violates this Section is subject to a  
13 civil penalty, imposed by the Department, of not more than \$50  
14 for a first violation and not less than \$200 nor more than \$500  
15 for a second or subsequent violation.

16 (505 ILCS 80/20.10 new)

17 Sec. 20.10. Restrictions on retail sale.

18 (a) A person may not sell at retail a product that (i)  
19 contains fertilizer material and (ii) is labeled as containing  
20 phosphorous or available phosphoric acid, unless the person  
21 knows that the purchaser intends to use the product for one or  
22 more of the following purposes:

23 (1) For establishing grass, using seed or sod, during  
24 the growing season in which the purchaser began  
25 establishing the grass.

1           (2) For application to an area if the soil in the area  
2           is deficient in phosphorus, as shown by a soil test  
3           performed by a laboratory no earlier than 36 months before  
4           the application of the product.

5           (3) For application to pasture, land used to grow grass  
6           for sod, or any other land used for agricultural  
7           production.

8           (4) For application to land used as a golf course.

9           (b) A person who violates this Section is subject to a  
10          civil penalty, imposed by the Department, of not more than \$50  
11          for a first violation and not less than \$200 nor more than \$500  
12          for a second or subsequent violation.

13           (505 ILCS 80/20.15 new)

14          Sec. 20.15. Restrictions on retail display.

15          (a) A person who sells products at retail may not display a  
16          product that (i) contains fertilizer material and (ii) is  
17          labeled as containing phosphorus or available phosphoric acid.  
18          However, a person who sells such a product at retail may post a  
19          sign advising customers that the product is available upon  
20          request for uses not prohibited by Section 20.5.

21          (b) A person who violates this Section is subject to a  
22          civil penalty, imposed by the Department, of not more than \$50  
23          for a first violation and not less than \$200 nor more than \$500  
24          for a second or subsequent violation.